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26646 7590 07/09/2010 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT BOSCH GMBH

Appeal 2009-006001
Application 10/534,108
Technology Center 3700

Before SALLY GARDNER LANE, JAMESON LEE, and
SALLY C. MEDLEY, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*.

DECISION ON APPEAL¹

A. STATEMENT OF THE CASE

This is a decision on appeal by the real party in interest, Robert Bosch GmbH (“Robert Bosch”), under 35 U.S.C. § 134(a) from a final rejection of

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

claims 19-26, 28, 29, and 36-39. We have jurisdiction under 35 U.S.C. § 6(b). We *reverse*.

References Relied on by the Examiner

Raskin	US 2,933,259	Apr. 19, 1960
Kappel et al. ("Kappel")	US 6,311,950 B1	Nov. 6, 2001

The Rejections on Appeal

The Examiner rejected claims 19, 20, 22-26, 28, 29, 36, and 38 under 35 U.S.C. § 102(b) as anticipated by Raskin.

The Examiner rejected claims 19, 21, and 37 under 35 U.S.C. § 103(a) as unpatentable over Raskin and Kappel.

The Invention

The invention relates to a dosing device for supplying liquid fuel into a chamber. (Spec. 4:1-13.)

Claim 19 is reproduced below (Clams App'x. 1):

19. A dosing device for a liquid fuel comprising:

at least one metering device configured to meter fuel into a metering conduit; and

a nozzle body, adjoining the metering conduit, having spray discharge openings which provide direct fluid communication between the metering conduit and a metering chamber,

wherein the nozzle body projects with a spherical portion at a spray-discharge end into the metering chamber, and the spray discharge openings are distributed over the spherical portion of the nozzle body; and

wherein the metering conduit has a number of points of reduced wall thickness that decrease the thermal conductivity of the metering conduit.

B. ISSUE

Has Robert Bosch shown that the Examiner was incorrect in finding that Raskin discloses a metering conduit having points of reduced wall thickness?

C. FINDINGS OF FACT

1. Raskin discloses a nozzle head for discharging fluid under pressure. (Raskin 1:15-17.)
2. Raskin discloses that its nozzle head includes semi-spherical members 19, 20 containing openings or bores 21, 22. (*Id.* at 4:13-17.)
3. Raskin describes an inner pipe 4 which is adapted to supply a fluid under pressure to the semi-spherical members 19, 20. (*Id.* at 3:8-12.)
4. Raskin does not show or describe that the inner pipe includes points of reduced wall thickness.

D. PRINCIPLES OF LAW

Anticipation is established only when a single prior art reference discloses all elements of the claimed invention. *In re Spada*, 911 F.2d 705, 708 (Fed. Cir. 1990).

E. ANALYSIS

The Examiner rejected claims 19, 20, 22-26, 28, 29, 36, and 38 as anticipated by Raskin and claims 19, 21, and 37 as unpatentable over Raskin and Kappel. Claim 19 is an independent claim. Claim 19 calls for a “metering conduit” that “has a number of points of reduced wall thickness

that decrease the thermal conductivity of the metering conduit.” (Claims App’x. 1.) The claim also calls for a “nozzle body” adjoining the metering conduit and including spray discharge openings.

The Examiner pointed to a “nozzle body” in Raskin as including spray discharge openings 21, 22. (Ans. 3:12-16.) Raskin discloses that openings or bores 21, 22 are contained within semi-spherical members 19, 20. (Raskin 4:13-17.) Thus, the Examiner found that members 19 and 20 form the nozzle body of the claims. As set forth in the claims, the nozzle body adjoins a metering conduit which includes “a number of points of reduced wall thickness.” That the nozzle body and metering conduit are “adjoining” means they are separate components that are arranged next to one another. It is the metering conduit that must contain the points of reduced wall thickness. The Examiner, however, pointed to member 19, *i.e.*, the nozzle body, as allegedly including points of reduced wall thickness. (Ans. 7-8.) Even if Raskin’s nozzle body 19 includes points with reduced wall thickness, that is insufficient to account for such points contained within the separate metering conduit component.

The Examiner does not identify any particular element of Raskin as constituting a metering conduit. Raskin describes an inner pipe 4 which is adapted to supply a fluid under pressure to the semi-spherical members 19 and 20. (Raskin 3:8-12.) To the extent that inner pipe 4 may form a metering conduit, the Examiner does not explain, and we do not see, where that pipe includes the points of reduced wall thickness that are required by the claims. Anticipation is established only when a single prior art reference discloses all elements of the claimed invention. *In re Spada*, 911 F.2d at 708. We do not sustain the rejection of claim 19 as anticipated by Raskin.

Claims 20, 22-26, 28, 29, 36, and 38 are ultimately dependent on, and include all the limitations of, claim 19. We also do not sustain the rejection of those dependent claims as anticipated by Raskin.

The Examiner rejected claims 19, 21, and 37 as unpatentable over Raskin and Kappel. The Examiner's reliance on Kappel does not make up for the above-noted deficiencies of Raskin. The Examiner does not explain how Kappel discloses a metering conduit that includes points of reduced wall thickness. On this record, we do not sustain the rejection of claims 19, 21, and 37 as unpatentable over Raskin and Kappel.

F. CONCLUSION

Robert Bosch has shown that the Examiner was incorrect in finding that Raskin discloses a metering conduit having points of reduced wall thickness.

G. ORDER

The rejection of claims 19, 20, 22-26, 28, 29, 36, and 38 under 35 U.S.C. § 102(b) as anticipated by Raskin is reversed.

The rejection of claims 19, 21, and 37 under 35 U.S.C. § 103(a) as unpatentable over Raskin and Kappel is reversed.

REVERSED

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Application 10/534,108

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